Mr. President: The question is that the Cochin Cattle Diseases (Amendment) Bill be taken up and finally passed.

Motion put and carried

(iii) The Cochin Rubber (Production and Marketing) Bill

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, with respect to this Bill —The Cochin Rubber (Production and Marketing) Bill—the Hon'ble member from Kunnamkulam has made certain representations that some slight alterations will be necessary. I wish to consider the representations made. So I am not moving this Bill now.

Mr. President: That is the alterations to be introduced by the Government.

Mr. P. Govinda Menon *(Minister for Finance and Law):* I am not moving it, Sir.

Not moved

Mr. President: The next item is introduction.

(b) INTRODUCTION

(i) The Cochin Stamp Act (Amendment) Bill

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I move that the Cochin Stamp Act (Amendment) Bill be read in Council.

Mr. E. Ikkanda Warrier *(Prime Minister):* I second it.

***Mr. P. Govinda Menon** *(Minister for Finance and Law):* Sir, this Bill is being moved to implement the Budget proposals and the rates of stamp duty are proposed to be enhanced. The enhancement is generally on 33 ⅓ per cent of the existing stamp duty subject to the maximum prescribed in the Madras Bill. In the year 1122 the stamp duty in question was raised by about 50 per cent. The rate of duty as now proposed to be raised will, therefore, be double the duty which prevailed in the year 1121. The schedule I which prescribes the duty on instruments is proposed to be totally substituted by the new schedule. Clauses 2 to 13 of the Bill are consequential amendments to the various sections of the Stamp Act to implement the revised rates proposed in the schedule. The new rate for every type of instrument will be seen in the schedule attached to the Bill. I want to draw the attention of the Hon'ble Members to one particular article in the schedule and that is article No. 46. It is well that the members of this House as well as the public will note what the provisions of that article are. Hitherto every promisory note required to be stamped only with a one anna stamp. That has not been the law in the Province of Madras. In Article 46 the provision is this. A Promisory note as definited by Section 2—22 then payable on demand when the amount or value does not exceed Rs. 250—one anna. When the amount or value exceeds Rs. 250, but does not exceed Rs. 1,000 —2 annas. In any other case four annas; when payable otherwise than on demand, the same duty as a Bill of Exchange payable otherwise than on demand. Now therefore the stamp duty has been increased by 33 ⅓ per cent and thereby the stamp duties payable from the first day of Dhanu will be twice the stamp duties which were payable in the year 1121 and with respect to promisory notes this rise in scale which is in force in the Madras Province will be introduced here. As I said it is well that we take note of it because a promisory note is generally executed without the advice of lawyers and often without the advice of scribes, transactions are done.

Mr. M. Bhaskara Menon *(Ernakulam):* Without the advice of the scribes!

Mr. P. Govinda Menon *(Minister for Finance and Law):* Often without the advice of scribes. In the case of the promisory notes, if a promisory note is not stamped, or if it is insufficiently stamped, then as every lawyer knows and as every litigant knows, the document is inadmissible in evidence. With respect to other documents which require stamp duty, if there is a deficiency in stamp. some payment will cure the defect, but in the case of promisory notes, it is not so; and this Bill is making that change with respect to the same duty payable with respect to promisory notes.

Mr. President: Any other Hon'ble Member to speak on this subject?

Mr. C. V. Iyyu *(Kunnamkulam):* On a point of information, Sir, whether the Government have got ready or have they in share now revenue stamps of the various values under the amendment Act.

Mr. P. Govinda Menon *(Minister for Finance and Law):* The Hon'ble Member need not be anxious. They will be ready.

Mr. President: The question is that the Cochin Stamp Act (Amendment) Bill be read in Assambly.

Motion put and carried

*Speech not corrected by the Hon'ble member.

LIBRARY ARCHIVES Kerala Legislative Assembly

Secretary to the Assembly: The title of the Bill is the Cochin Stamp Act (Amendment) Bill.

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I pray that Standing Order 32 may be suspended and the Bill may be taken up for consideration.

Mr. President: Standing Order 32 is suspended.

Now the question is that the Cochin Stamp Act (Amendment) Bill be taken up for consideration.

Motion put and carried

Mr. P. Govinda Menon *(Minister for Finance and Law)*:Sir, I pray that the Bill be taken up and finally passed.

Mr. President: Clause by clause.

Mr. P. Govinda Menon *(Minister for Finance and Law):* No, Sir.

Mr. President: The question is that clauses 2 to 14 of the Bill stand part of the Bill.

Motion put and carried

The question is that clause I stands part of the Bill.

Motion put and Carried

The question is that the schedule I stand part of the Bill.

Motion put and carried

The question is that the title and preamble stand part of the Bill.

Motion put and carried

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I move that the Bill be taken up and finally passed to-morrow.

Mr. E. Ikkanda Warriar *(Prime Minister):* I second it.

Mr. President: The question is that the Cochin Stamp Act (Amendment) Bill be taken up and finally passed to-morrow.

Motion put and carried

(c) MOTION FOR SELECT COMMITTEE

(i) The Cochin Income-tax Act (Amendment) Bill

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, I move that the Cochin Income-tax Act (Amendment) Bill be read in Council.

Mr. E. Ikknnda Warrier (*Prime Minister*): I Second it.

Mr. P. Govinda Menon *(Minister for Finance and Law):* Sir, this is also one of the Bills which is being introduced to implement the proposals of the Budget which I introduced earlier in this meeting. By this Bill it is proposed to raise the income-tax and the super-tax rates to the level now prevailing in the Indian Dominion. Under section 20 of the existing Cochin Act agricultural income and the income from other sources are to be assessed separately and different rates of tax are fixed for these two classes of income. By this Bill it is proposed to do with the separate assessment and with the separate rates. These proposals involve slight amendment to the body of the Act and the adoption of the schedule in the Act.

മിസ്റ്റർ കോടനാട്ട് നാരായണൻനമ്പൂതിരിപ്പാട്: സർ, ഈ ബില്ലിന്റെ ചിലഭാഗങ്ങളെപ്പറ്റി എനിക്ക ചില സംശതികൾ പറയുവാനുണ്ട്. ബഹുമാനപ്പെട്ട മന്ത്രിയുടെ പ്രസ്താവനയിൽനിന്നും രണ്ട സംശതികളാണ് മനസ്സിലാക്കുവാൻ സാധിക്കുന്നത്. ഒന്നാമത്തേത് ഇന്നിവിടെ നിലവിലുള്ള ആദായനികുതിതോതു് ഇന്ത്യായൂണിയനിൽ നിലവിലുള്ളതോതിന്റെ സമമാക്കി വർദ്ധിപ്പിക്കുക എന്നുള്ളതാണ്. രണ്ടാമത്തേത് കാഷ്കികാദായനികുതി തോതിലും മേൽത്തരംവ വരുമായങ്ങളിൽനിന്നും സിദ്ധികുന്ന ആദായത്തിന്മേലും ചുമത്തുന്ന നികുതികുറച്ച് ഇന്ന നിലവിലുള്ള വ്യത്യാസത്തെ ഇല്ലായ്ചെയ്യുക എന്നുള്ളതാണ്. ആ തായത്ത് കാഷ്കികാദായത്തിൽനിന്ന കുറഞ്ഞ തരത്തിലുള്ള റേറാണ് ഇന്നുള്ളത്. ആ റേറ് ഇല്ലായ്ച ചെയ്ത് ഒരുപോലെ ആക്കണമെന്നാണ് പറയുന്നത്. ഈ തത്വത്തോടാണ് എനിക്ക പ്രധാനമായി ഭിന്നാഭിപ്രായമുള്ളത്. കാഷ്കികാദായത്തിന്മേൽ ചുമത്തുന്ന നികുതി മറ്റ് ആദായങ്ങളിൽ ചുമത്തുന്ന നികുതിയേക്കാൾ തണതരത്തിൽ ആയിരിക്കണമെന്ന തത്വം ഇവിടെ നിലവിലുണ്ടെന്ന മാത്രമല്ല കാഷ്കികാദായനികുതി നിലവിലുള്ള ഇന്ത്യൻ പ്രോവിൻസുകളിലും അംഗീകരിച്ചിട്ടുണ്ടെന്നാണ് ഞാൻ വിചാരിക്കുന്നത്. അടുത്തകാലത്തു് മദിരാശിസംസ്ഥാനത്തിൽ കാഷ്കികാദായനികുതി ചുമത്തണമെന്ന ഒരാലോചനയുണ്ടായി. ആ ആലോചനയെ പുരസ്കരിച്ചുകൊണ്ട് ഒരു ബിൽ കൊണ്ടുവരികയും അതു ഫോർട്ട് സെൻറ് ജോർജ്ജു് ഗസറ്റിൽ പ്രസിദ്ധപ്പെടുത്തുകയും ചെയ്തിട്ടുണ്ട്.

LIBRARY ARCHIVES Kerala Legislative Assembly

APPENDIX II
NOTIFICATION

Under Standing Order 35 of the Cochin Legislative Assembly Standing Orders, the following report of the Select Committee appointed by the Legislative Council on 7th December 1947 to consider the Cochin Minimum Wages Bill together with the modified Bill and dissenting notes is published for general information.

We, the members of the Select Committee appointed to consider the Cochin Minimum Wages Bills, one introduced by Government and the other by Mr. P. K. Dewer, have the honour to submit the following report—

The Select Committee held in all nine meetings and examined 21 witnesses and both the bills were considered together. They also received various written representations. The Committee was engaged in examining in detail the various provisions in the Bills when it came to their notice that the Bill introduced in the Dominion Legislature had undergone substantial changes and it was deemed advisable to ascertain the changes made to the Bill in the Dominion Legislature. The Committee had the advantage of going through the Bill as passed by the Dominion Legislature and at its last sitting on 21st Meenam 1123 (3rd April 1948) the question as to whether our legislation on the subject should not be on the lines of the Bill as passed by the Dominion Legislature was raised and discussed. Excepting as regards the provision regarding bonus, the bill introduced by Government does not materially differ from the Bill introduced in the Dominion Legislature. The changes effected by the Select Committee and the amendments to which the bill was subjected to in the Dominion Legislature are improvements which could, with advantage, be adopted here also. The main question which we had to decide was as to whether we should retain or delete the clause regarding the statutory provision for the payment of bonus at the rate not exceeding 50 per cent of the net profits. Opinion on this was divided. It was strongly urged on the one side that legislation relating to matters pertaining to labour and industries must be on all fours with the parallel legislations in the Indian Dominion and that unless this was done, it will retard the industrial and commercial progress of the State. It was, however, contended on the other side that the right of the employees to a share in the bonus has now-a-days become well recognised and that a provision in that behalf in the Bill will merely be a statutory recognition of a fairly well established right. It was apprehended that Government having made such a provision in the Bill, the deletion of the provision regarding bonus fron the Bill at this stage might be used as an argument to negative the right of the employee to a bonus. However, it was pointed out that in as much as bonus was even now being paid in spite of the absence of statutory provision therefor and since we are deleting the particular clause mainly on account of the necessity to fall in line with the Dominion legislation on the subject, this contention has not much force. The question as to whether we should not follow the Dominion legislation closely was considered and it was decided by a majority that we should follow minutely the provisions of the Bill as passed by the Dominion Legislature. Messrs. Chowwara Parameswaran, P. K. Dewer and P. Achutha Menon, however, moved for the retention of the clause relating to bonus, but this was negatived. The advantages of falling in line with the Dominion legislation and the handicaps to which the State would be put to if we make any violent departure therefrom were the main considerations which weighed the Committee in recommending a Bill exactly on the lines of the Bill that will become law in the Dominion of India. A Bill as so redrafted by the Select Committee is appended to this Report. The changes effected in the Bill are intended further to clarify some of the provisions and they are self-explanatory.

The Bill introduced by Government was published in English in the Gazette dated 12th Makaram 1122/25th January 1947 and in Malayalam in the Gazette dated 1st March 1947/17th Kumbham 1122. Mr. P. K. Dewer's Bill was published in English in the Government Gazette dated 3rd Kumbham 1122/15th February 1947 and in Malayalam in the Gazette dated 20 Medam 1122/3rd May 1947.

Since the Bill has undergone substantial changes at the hands of the Select Committee we recommend that the same may be republished.

We have the honour to be,
Sir,
Your most obedient Servants,
(Sd.) T. K. NAYAR
Prime Minister and Chairman

(Sd.) Mr. Parambi Lonappen
(Sd.) Advocate-General

CLA XI 3

LIBRARY ARCHIVES Kerala Legislative Assembly

(Sd.) Mr. P. K. Dewer (Subject to a dissenting note)
(Sd.) Mr. M. O. Thomakutty (Subject to a dissenting note)
(Sd.) „ K. P. Rao
(Sd.) „ Chowwara Parameswaran (With dissenting minute)
(Sd.) „ Puthur Achutha Menon (With dissenting note)
(Sd.) „ K. Kochukuttan (Subject to a dissenting note)
(Sd.) „ K. T. Achuthan (Subject to a note to be appended)
(Sd.) „ K. Nadarajan Chettiar
(Sd.(„ P. Kumaran Ezhuthassan (With dissenting note)
(Sd.) „ C. N. Ittiravi Namboodiri

DISSENTING NOTE BY Mr. P. KUMARAN EZHUTHASSAN

I do not find my way to subscribe to the view, that unless legislation in the State is on all fours with that in the Indian Dominion, "it will retard the industrial and commercial progress of the State. It is not also easily understood why we should always and in all cases fall in line with Dominion Legislation especially when the attempt is to make the State Legislation more progressive and one intended to give statutory recognition to an almost well settled question namely the grant of bonus to the labourer who is an important factor in bringing about a profit in the particular industry concerned.

The only proposition that was voted upon by the Committee being that "the Cochin Bill be on the lines of the Dominion Act with the addition of the bonus clause contained in the Cochin Bill (Clause 5 of the Draft Bill) I could not cast my vote either for or against the same. I had been and still am for having a provision in the Cochin Legislation for payment of bonus to labourers, but well circumscribed to safeguard the interests of both capital and labour. This will be quite clear from my observations on the Bill when the same was introduced in the Council and subsequently referred to a Select Committee. This attitude of mine is gatherable from the position taken up by me when evidence was being recorded by the Committee also.

The capitalist and the labourer being the essential component parts of the Industrial world, one complementing the other, it is easily understood that it is only a very smooth working between these two that will conduce to maximum production which is the *sine qua non* for progress in industry leading to the raising of the standard of life of the labourer. For such a smooth working in any industry, contentment amongst the employees is quite essential. This contentment is best engendered and kept up if the labourer is assured, over and above a minimum wage, a part of the net profit of the concern. It is equally necessary that the industrialist who puts in the necessary capital and also contributes the many other things necessary for the successful working of the concern is also assured of a reasonable return for his contribution. It is very well known that many sensible industrialists in Cochin as elsewhere, are, as a matter of fact, actually distributing a portion of the net profits amongst those that contribute towards profits. Many a Cochin industrialist whom I contacted never raised any objection for giving bonus to employees. The point of difference was only with regard to the quantum of such bonus and how the net profits are to be arrived at. He also emphasised that it is not enough if the labourer is given bonus but he in his turn should realise that he has to contribute his best to maximum production which acts on the profits.

That being so I really do not understand at all why the majority of the Committee in which, falsely and maliciously, I am also reported by some papers in the state, to be included, voted against having a clause in the Bill assuring bonus to the employee. I must, however, state at once that the clause in our Bill (Clause 5 of the draft Bill) cannot be retained as it is. It requires modification in various respects. The committee at its first meeting after evidence was closed did actually take up this matter and did solicit the opinion of experts on this point. This point, however, was not pursued, it seems for the reason that the Dominion Legislation was passed without a clause for bonus before the next meeting of the Committe which for unavoidable reasons I could not attend. The bonus agreed upon, for one thing, should not be distributed among the employees periodically, only to be dissipated by them in their ignorance and environmental circumstances. The bonus on the other hand, should be preserved for him in the shape of payment for shares in their name when that is possible or invested to their credit in the shape of provident fund or similar things to be drawn on in dire circumstances. How clause 5 in the draft Bill should be remodelled are points to be raised at the stage of consideration of the Bill.

A blind following of the Dominion Act which is seen in the redrafted bill attached to the report also is not welcome. Modifications to be made therein can wait for the next stage.

It is earnestly hoped that the House would be pleased to stand by justice agreeing to have a clause in the Cochin Legislation for

LIBRARY ARCHIVES Kerala Legislative Assembly

payment of bonus holding the balance even between the two component parts of Industry one complementary of the other thus giving a quietus at least for some time to come, to the unhappy relationship that unfortunately exists between capital and ladour in Cochin. My earnest endeavour at the stage of consideration of the Bill as reported by the Committee will be towards this end in which I hope to have the support of atleast a clean majority of the House, if not, happily, of the whole House,

(Sd.)
P. KUMARAN EZHUTHASSAN,
28th Meenam 1123.

JOINT DISSENTING MINUTE BY MESSRS. CHOWWARA PARAMESWARAN, P. K. DEWER, PUTHOOR ACHUTHA MENON AND K. KOCHUKUTTAN

We are constrained to disagree with the majority opinion that the clause relating to Bonus should be deleted. The argument that "legislation relating to matters pertaining to labour and industries must be on all fours with the parallel legislation in Indian Dominion and that unless this was done it will retard the industrial and commercial progress of the State" certinly appeals to us also. We are of opinion, and we have made it clear in the Select Committee meetings, that it will always be conducive to the progress of the State to have legislation on all matters on the same lines as in India. But where was this anxiety on the part of the Government and other interested parties, when the "appellate Tribunal Proclamation" was issued and brought into force giving retrospective effect even-to quote only one instance among many? We demand a straight answer to this question.

We feel convinced that retention of the Bonus clause in the bill will not only instill more enthusiasm and spirit of co-operation in labour but will, to that extent atleast, reduce the worry of Industria lists and Government in dealing with Labour Strikes, adjudications, etc. the right of labour to a share in the profits has been well and permanently established and recognised all over India. Reputed concerns like the Tatas have been paying regular annual bonus to its employees without any third party intervention or compulsion. The quantom of Bonus sometimes was as high as 3½ months' salary or wages. The Mathrubhoomi Printing and Publishing Company Ltd., Calicut have been paying for some years past regular annual bonus to each employee equal to 6 months' wages or salary—in 1946 it was 7 months' salary or wages. We know many concerns in Cochin State also have been regulary paying substantial bonus to its employees.

At present, dispute arises, not about the right of labour to a share in the profits—this right has been established beyond dispute—but only as to what that share ought to be. We will be paving the way smooth both for capitalist and labour if we lay down, definitely and clearly, what portion of the profits labour has a claim to. Retaining this clause, therefore, will only attract outside capital into this State because shrewd and intelligent businessmen will realise that they will have far less labour troubles here in Cochin State than elsewhere in India.

We very strongly appeal that the Bonus clause also be retained.

1. (Sd.) CHOWWARA PARAMESWARAN
   Member, Select Committee,
   Minimum Wages Bill
2. (Sd.) P. K. DEWER
   Member, Select Committee,
   Minimum Wages Bill
3. (Sd.) PUTHOOR ACHUTHA MENON
   Member, Select Committee,
   Minimum Wages Bill
4. (Sd.) K. KOCHUKUTTAN
   Member, Select Committee
   Minimum Wages Bill

DISSENTING NOTE BY MR. M. O. THOMAKUTTY

In my opinion the time is not yet ripe for the enactment of a measure like this. It is true that the Indian Dominion Legislature has recently passed such a law. But in the matter of industrial development there is no comparison whatever between our State and the Indian Dominion. The number of industrial concerns in the State is very limited and exepting the talk regarding industrialisatiosn

LIBRARY ARCHIVES Kerala Legislative Assembly

there has been no attempt on the part of Government worth mentioning to realise this objective. That, therefore, the Indian Dominion has passed such a law cannot be an argument for the passing of such a law in this State in view of our backwardness in the matter of industrial development. I am also against the policy of blindly copying all the laws passed in the Indian Dominion in our State irrespective of considerations regarding their adapatability and necessity so far as circumstances in our State are concerned.

2. From what I have stated above I do not at all for a moment mean that Government should not come forward to safeguard the interests of labour with suitable and practicable legislations whenever found absolutely necessary. But Government should see that the circumstances prevailing warrant the enactment of such measures. In this case the Bill is neither expedient nor necessary in the present state of our industrial progress. Instead of bringing forward such laws at this juncture, I think, Government should have been more solicitous in the matter of finding out means of additional employment to our labour classes by encouraging and promoting the starting of new industrial concerns. What is more urgently required is a bold and statesmanlike policy in the matter of industrialisation. Capitalists and industrialists should be encouraged by affording them all possible facilities and conveniences for starting new industries and the Government must see that they are established on sonnd and firm footing. By so doing the number of the industrial concerns in the State will be multiplied and the number of the labour population will also justify the enactment of such a measure. A bold policy of industrialisation should precede the enactment of such a law. Otherwise, it will be like putting the cart before the horse. I am, therefore, opposed to the policy of Government passing such laws without in the least caring for finding out perennial sources of employment for the labour classes which alone can save them from starvation and ruination. I, therefore, maintain that the time has not yet come for us in this State to pass such a law.

3. Apart from this, there are also some objectionable features in the Bill. But when dealing with this aspect I must express my gratitude to the members of the Select Committee for having effected some radical alterations to the original Bill. The provisions in the original Bill were not only impractical but also detrimental to the industrial interests of the State. It is very wise on the part of the Committee in having decided to remodel our Bill on the lines of the Act passed by the Indian Dominion. The Committee was thus able to delete several of the objectionable features of the Bill, the most important of which was the clause regarding the compulsory payment of 50 per cent of the profits as bonus to labourers. As this clause has been completely deleted I do not propose to discuss about the demerits of such a compelling provision in this Note. But there are some other clauses which I think require some modifications.

Clause 5 of the Bill as amended by the Select Committee lays down the procedure for fixing minimum wages. It runs as follows:—

"(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act, Government shall either—

(*a*) Appoint a committee to hold enquiries and advise it in this beahlf with such sub-committee for different localities as it may deem expedient to appoint to assist such committee, or

(*b*) by notification in the Cochin Government Gazette, publish their proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration."

The option of deciding on the procedure laid down in Clause 5 (1) (*b*) should not be delegated to Government as Government's own choice and hence this sub-clause has to be deleted. It follows from the above that is should be clearly laid down in the Bill that Government would normally be bound by the recommendations of the wage fixing Committee unless it considers those recommendations perverse and records in writing its reasons for such a view. Hence Clause 5 (2) has to be suitably amended.

4. Another important point on which I have to dissent from the views of the majority is in the matter of appeal against the decision of the Auuthority appointed under Clause 20 of the Bill as amended by the Select Committee. In sub-clause (6) of Clause 20 it has been laid down that every direction of the Authority under this section shall be final Provision should legitimately be made for appeals against the decision on the appointed Authority. In my opinion this is a very important point and unless sufficient safeguards are provided in the Act itself it may later on lead to many undesirable complications and consequences.

LIBRARY ARCHIVES Kerala Legislative Assembly

5. My objection, therefore, is mainly to the passing of this legislation at this juncture when we ought to make an all-out effort for rapid industrialisation and not to fill our Statute Book with impractical laws. The enactment of such measures are only calculated to make the industrialists shy. The passing of this measure instead of doing any good to the country will only do incalculable harm to the true interests of our State. I am one with the Committee in having remodelled the Bill on the lines of the Act passed by the Indian Dominion thereby removing its very objectionaple features. But my main contention is that the Bill itself is not necessary here in the present circumstances. I regret that I have to dissent from the majority on this point.

(sd.) M. O. THOMAKUTTY

DISSENTING NOTE BY MR. K. T. ACHUTHAN

My first and foremost consideration is that such kind of legislation must conform to Indian Legislation strictly. It is a recognized principle that labour has got a legitimate share in the profits and I believe that no State can deny or ignore this right. I request the Government to introduce a bill with this Clause as the main one without any delay. Otherwise the non-official section will have to moot it.

THE COCHIN MINIMUM WAGES BILL

(As modified by the Select Committee)

WHEREAS it is expedient to provide for fixing minimum rates of wages in certain employments;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Cochin Minimum Wages Act, of 112 .

(2) It extends to the whole of Cochin State.

2. *Interpretation.*—In this Act, unless ther is anything repugnant in the subject or context.—

(*a*) "adult", "adolescent" and "child" have the meanings respectively assigned to them in section 2 of the Cochin Factories Act, II of 1113;

(*b*) "competent authority" means the authority appointed by Government by notification in the Cochin Government Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(*c*) "cost of living index number" in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the Cochin Government Gazette to be the cost of living index number applicable to employees in such employment;

(*d*) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26.—

(*i*) in a factory, where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (*d*) of sub-section (1) of section 9 of the Cochin Factories Act, II of 1113 as manager of the factory;

(*ii*) in any scheduled employment under the control of Government in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by Government for the supervision and control of employees or where no person or authority is so appointed, the Head of the Department;

(*iii*) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(*iv*) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to be the owner for the supervision and control of the employees or for the payment of wages;

(*e*) "prescribed" means prescribed by rules made under this Act;

LIBRARY ARCHIVES Kerala Legislative Assembly

(*f*) "scheduled employment" means an employment specified in the Schedule, or any process or branch of work forming part of such employment;

(*g*) "wages means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

(*i*) the value of—

(*a*) any house-accommodation, supply of light, water, medical attendance, or

(*b*) any other amenity or any service excluded by general or special order of Government;

(*ii*) any contribution paid by the employer to any Pension Fund or Provident Fund or under any Scheme of social insurance ,

(*iii*) any travelling allowance or the value of any travelling concessions,

(*iv*) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment or,

(*v*) any gratuity payable on discharge;

(*h*) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned washed, altered, ornamented, finished, repaired, adapted or otherwise processed for the sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by Government; but does not include any member of the armed forces of this Government or of the Indian Dominion.

3. *Fixing of minimum rates of Wages.*—(1) Government shall, in the manner hereinafter provided.—

(*a*) fix, before the expiry of three years in the case of an employment specified in Part II of the Schedule, or two years in any other case, from the commencement of this Act, or, as the case may be, from the date of the notification under section 27 including the employment in the Schedule, the minimum rates of wages payable to employees employed in all scheduled employments;

(*b*) review, at such intervals as they may think fit, such intervals not to exceed five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that Government shall not be required to fix minimum rates of wages in respect of and scheduled employment in which there are in the whole of Cochin State less than one thousand employees engaged in such employment.

(2) Government may fix—

(*a*) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(*b*) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(*d*) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(3) In fixing or revising minimum rates of wages under this section.—

(*a*) different minimum rates of wages may be fixed for—

(*i*) different scheduled employments;

(*ii*) different classes of work in the same scheduled employment;

(*iii*) adults, adolescents, children and apprentices;

(*iv*) different localities;

(*b*) minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed:

Provided that where any wage-periods have been fixed under section 4 of the Cochin Payment of wages Act, IV of 1113 minimum wages shall be fixed in accordance therewith.

LIBRARY ARCHIVES Kerala Legislative Assembly

4. *Minimum rate of wages.*—(1) Any minimum rate of wages fixed or revised by Government in respect of scheduled employments under section 3 may consist of—

(*i*) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance)"; or

(*ii*) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or

(*iii*) an all-inclusive rate allowing for the basic rate; the cost of living allowance and the cash value of the concessions, if any;

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by Government.

5. *Procedure for fixing minimum wages.*—In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act, Government shall either—

(*a*) appoint a committee to hold enquiries and advise it in this behalf with such sub-committees for different localities as it may deem expedient to appoint to assist such committee, or

(*b*) by notification in the Cochin Government Gazette publish their proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the Committee appointed under clause (*a*) of sub-section (1) or as the case may be, all representations received by them before the date specified in the notification under clause (*b*) of that sub-section, Government shall, by notification in the Cochin Government Gazette fix the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

6. *Advisory committees and sub-committees.*—For the purpose of revising minimum rates of wages fixed under this Act, Government shall appoint as many advisory committees and sub-committees as they consider necessary to inquire into the conditions prevailing in any scheduled employment and to advise Government in making such revision in respect of that employment.

7. *Advisory Board.*—For the purpose of co-ordinating the work of committees, sub-committees, advisory committees and advisory sub-committees appointed under sections 5 and 6 and advising Government generally in the matter of fixing and revising minimum rates of wages, Government shall appoint an advisory Board.

8. *Central Advisory Board.*—(1) For the purpose of advising Government in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by Government.

9. *Composition of Committees, etc.*—Each of the committees, sub-committees, advisory committees, advisory sub-committees and Advisory Board shall consist of persons to be nominated by Government representing employers and employees in the seheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by Government.

10. *Procedure for revision of minimum rates of wages.*—Before revising any minimum wages fixed under this Act, Government shall consult all advisory committees appointed under section 6 to inquire into the conditions prevailing in the scheduled employment concerned, and the Advisory Board also.

(2) Revisions of minimum wages shall be notified by Government in the Cochin Government Gazette, and unless the notification othervise provides, it shall come into force on the expiry of three months from the date of its issue.

LIBRARY ARCHIVES Kerala Legislative Assembly

11. *Wages in kind.*—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Cochin Government Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If Government are of opinion that provision should be made for the supply of essential commodities at concession rates, Government may, by notification in the Cochin Government Gazette, authorise the provision of such supplies at concession rates.

(4) The cash value of wages in kind, and of concessions in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

12. *Payment of Minimum rates of wages.* (1) Where in respect of any scheduled employment a notification under section 5 or section 10 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for thatc lass of employees in that employement without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Cochin Payment of Wages Act, IV of 1113.

13. *Fixing hours for a normal working day, etc.,* In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, Government may—

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate

14. *Overtime.* (1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of section 47 of the Cochin Factories Act, II of 1113, in any case where those provisions are applicable.

15. *Wages of worker who works for less than normal working day.* If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and

(ii) in such other cases and circumstances as may be prescribed.

16. *Wages for two or more classes of work.* Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

17. *Minimum time-rate wages for piece mork.* Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wagesat not less than the minimum time rate.

18. *Mintenance of registers and records.* (1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed,

LIBRARY ARCHIVES Kerala Legislative Assembly

or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(3) Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

19. *Inspectors.* (1) Govsrnment may, by notification in the Cochin Government Gazette, appoint such persons as they think fit to be Inspectors for the purposes of this Act, and difine the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed.—

(*a*) enter, at all reasonable hours, with such assistants (if any), being persons in the service of Government or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examin.ng any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(*b*) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;

(*c*) require any person giving out work and any out workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(*d*) take copies of any register, record of wages or notices or of any portion thereof; and

(*e*) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Cochin Penal Code, I of 1059.

20. (1) *Claims.* Government may, by notification in the Cochin Government Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages to employees employed or paid in that area.

(2) Where an emploeye is paied less than the minimum rates of wages fixed for his class of work under this Act, the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with permission of the Authority appointed under subsection (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Auhority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or give them an opportunity of being heard, and after such further inqury, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess and the Authority may direct payment of such compensation in cases where the execess is paid by the employer to the employee before the disposal of the application.

(4) If the Authority hearing any application under this section is statisfied that it was either malicious or vexatious it may direct that a penalty not exceeding fifty rupees be paid to the employerby the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered.—

(*a*) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

LIBRARY ARCHIVES Kerala Legislative Assembly

(*b*) if the Authority is not a Magistrat, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every authority appointed under this sub-section shall have all the powers of a Civil Court under the Code of the Civil Procedure XXIX of 1111 for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents and every such Authority shall be deemed to be a Civil Court for all the purposes of section 172 and Chapter XXXV of the Code of Criminal Procedure, II of 1086.

21. *Single application in respect of a number of employees.*—(1) A single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimnm rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

22. *Penalties and procedure.*—(1) Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or infringes any order or rules made under section 13, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:

Provided that in imposing any fine for an offence under this sub-section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

(2) Any employer who fails to maintain a register or record required to be maintained under section 18 shall be punishable with fine which may extend to five hundred rupees.

(3) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1), unless an application in respect of the facts constituting the offence has been presented under section 20 and has been granted wholly or in part, and the Authority granting such application has sanctioned the making of the complaint.

(4) No Court shall take cognizance of an offenee under sub-section (2) except on a complaint made by, or with the sanction of, an Inspector.

(5) No Court shall take cognizance of an offence.—

(*a*) under sub-section (1), unless complaint thereof is made within one month of the grant of sanction under sub-section (3);

(*b*) under sub-section (2), unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

23. *Exemption of employer from liability in certain cases.*—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged.

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

24. *Bar of suits.*—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(*a*) forms the subject of an application under section (20) which has been presened by or on behalf of the plaintiff, or

(*b*) has formed the subject of a direction under that section in favour of the plaintiff, or

(*c*) has been adjusted in any proceeding under that section not to be due to the plaintiff, or

(*d*) could have been recovered by an application under that section.

LIBRARY ARCHIVES Kerala Legislative Assembly

25. *Contracting out.* Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee, either relinquishes or reduces his right to a minimum rate of wages, or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

26. (1) *Exemptions and exceptions.* Government may, subject to such conditions, if any, as they think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) Government may, if for special reasons they think so fit, by notification in the Cochin Government Gazette direct that for such period as they may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

(3) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependant on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

27. *Power of Government to add to schedule.* Government, after giving by notification in the Cochin Government Gazette, not less than three months' notice of their intention so to do may, by like notification, add to either part of the Schedule any employment in respect of which they are of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall be deemed to be amended accordingly.

28. (1) *Power of Government to make rules.* Government may, subject to the condition of previous publication, by notification in the Cochin Government Gazette, make rules for carrying out the purposes of this Act;

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board;

(b) prescribe the term ofoffice of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, advisory committe advisory sub-committees and the Advisory Board;

(c) prescrtbe the method of summoning witnesses, prodnction of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, advisory committees, advisory sub-committees, and the Advisory Board;

(d) prescribe the mode of computation of the cash value of wages in kind and of concessions is respect of supplies of essential commodities at concession rates;

(e) prescribe the time and conditions of payment of and the deductions permissible from wages;

(f) provide for giving adequate publicity to the minimum rates of wages fixed under this Act;

(g) provide for a day of rest in very period of seven days and for the payment of remuneration in respect of such day;

(h) prescribe the number of hours of work which shall constitute a normal working day;

(i) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;

(j) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records;

(k) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;

(l) prescribe the powers of Inspectors for purposes of this Act;

(m) regulate the scale of costs that may be allowed in proceedings under section 20;

(n) prescribe the amount of court-fees payable in respect of proceedings under section 20; and

(o) provide for any other matter which is to be or may be prescribed.

THE SCHEDULE

[*See sections 2(g) and 27*]

PART I

1. Employment in any woollen carpet making or shawl weaving establishment.

LIBRARY ARCHIVES Kerala Legislative Assembly

2. Employment in any rice mill, flour mill or dhall mill.
3. Employment in any tobacco (inculding beedi making) manufacturing
4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.
5. Employment in any oil mill.
6. Employment under any local authority.
7. Employment on road construction or in building operations.
8. Employment in stone breaking or stone crushing.
9. Employment in any lac manufactory.
10. Employment in any mica works.
11. Employment in public motor transport.
12. Employment in tanneries and leather manufactory.

PART II

1. Employment in agriculture, that is to say, in any form of farmting including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees or poultry,, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

LIBRARY ARCHIVES Kerala Legislative Assembly